

# SENATE BILL No. 1

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-21-1-13.5; IC 15-3; IC 15-5-9; IC 23-14; IC 32-26; IC 33-33-49-9; IC 33-34-3; IC 34-30-2-58; IC 36-2; IC 36-3; IC 36-4-6-14.5; IC 36-6; IC 36-7; IC 36-8-10.5-8; IC 36-10-7-1; IC 36-10-7.5-1.

**Synopsis:** Marion County government matters. Provides that the Marion County auditor (rather than the Indianapolis city controller) must record certain information concerning warrants issued by the auditor. Provides that the signature of the Marion County auditor may not be signed on, imprinted on, or affixed to a warrant for the payment of county or city funds without the approval of the auditor. Specifies that the Marion County auditor may take certain actions assigned by law to the auditor without the approval of the Indianapolis city controller. Specifies that the Marion County auditor is responsible for payroll functions and duties for all city and county departments, offices, and agencies, and the Indianapolis city controller may not perform these functions and duties, except as requested by the auditor. Provides that each elected county officer is responsible for establishing the human resources policies and personnel policies that apply to employees of the county officer, and that these policies may be established without the approval of any other person, except for city-county council approval of compensation of employees. Provides that in Marion County: (1) a township trustee's duties regarding parks and recreation, fences, cemeteries, detrimental weeds, and administration of the dog tax and dog fund are transferred to the consolidated city; (2) all assets, property rights, equipment, records, personnel, and contracts concerning a trustee's duties regarding parks and recreation, fences, cemeteries, detrimental weeds, and administration of the dog tax and dog fund are transferred to the (Continued next page)

**Effective:** Upon passage; July 1, 2006; January 1, 2007.

**Young R Michael**

January 9, 2006, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.



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consolidated city on January 1, 2007; and (3) that the indebtedness of a township regarding a township trustee's duties regarding parks and recreation, fences, cemeteries, detrimental weeds, and administration of the dog tax and dog fund is assumed or defeased by the consolidated city and property taxes imposed by the consolidated city for that indebtedness are exempt from the ad valorem property tax limits. Reduces a township board in Marion County from seven to five members. Provides that a township board in a township in Marion County has the powers and duties of a board of zoning appeals with regard to approving and denying variances, special exceptions, special uses, contingent uses, or conditional uses except: (1) in Center Township; (2) in an excluded city that has a board of zoning appeals; and (3) with regard to a historic area or historic zoning district where the historic preservation commission exercises the powers of a board of zoning appeals. Gives original and exclusive jurisdiction over infraction and ordinance violation cases in Marion County to the Marion County small claims courts with certain exceptions. Specifies that, except for cases involving unpaid parking tickets, venue of any infraction or ordinance violation proceeding must be in the township where the alleged violation occurred. Establishes preferred venue for cases involving unpaid parking tickets. Requires the judge of the circuit court to assign cases concerning unpaid parking tickets to certain small claims courts. Increases from \$6,000 to \$10,000 the jurisdictional limits of the Marion County small claims courts in: (1) civil cases founded on contract or tort; (2) possessory actions between a landlord and tenant; and (3) cases involving possession of property. Establishes in Marion County: (1) the fire, emergency medical services, and safety board to determine whether the townships and the consolidated city should enter into interlocal cooperation agreements regarding hiring, training, purchasing, and other matters; and (2) the fire and emergency services advisory board to establish educational requirements for firefighters employed by township fire departments and the Indianapolis fire department. Requires the minimum basic training required for state certification to be conducted for Marion County fire and emergency services personnel at the Emergency Services Education Center in Wayne Township. (The introduced version of this bill was prepared by the Marion County consolidation study commission.)

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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## SENATE BILL No. 1

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 14-21-1-13.5, AS AMENDED BY P.L.1-2005,  
2 SECTION 143, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JANUARY 1, 2007]: Sec. 13.5. (a) The division may  
4 conduct a program to survey and register in a registry of Indiana  
5 cemeteries and burial grounds that the division establishes and  
6 maintains all cemeteries and burial grounds in each county in Indiana.  
7 The division may conduct the program alone or by entering into an  
8 agreement with one (1) or more of the following entities:  
9 (1) The Indiana Historical Society established under IC 23-6-3.  
10 (2) A historical society (as defined in IC 36-10-13-3).  
11 (3) The Historic Landmarks Foundation of Indiana.  
12 (4) A professional archeologist or historian associated with a  
13 college or university.  
14 (5) A township trustee, **in a county not having a consolidated**  
15 **city.**



(6) Any other entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director considers appropriate. The director shall use a gift or grant received under this subsection:

(1) to carry out subsection (a); and

(2) according to the terms of the gift or grant.

(c) At the request of the director, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).

(d) The director shall administer a trust fund established by subsection (c). The expenses of administering the trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

(h) The division may record in each county recorder's office the location of each cemetery and burial ground located in that county.

SECTION 2. IC 15-3-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.5. (a) This section applies to a township in a county having a consolidated city.**

**(b) After December 31, 2006, the duties of a township trustee under this chapter shall be transferred to the consolidated city.**

SECTION 3. IC 15-3-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) As used in this chapter, "detrimental plant" includes Canada thistle (*cirsium arvense*), Johnson grass, sorghum alumun (*sorghum halrphense*), bur cucumber (*sicyos angulatus*), shattercane (*Sorghum bicolor* [L.] Moench spp. *drummondii* [Steud.] deWet), and, in residential areas only, noxious weeds and rank vegetation. The term does not include agricultural crops.

**(b) As used in this chapter, "fund" means:**

**(1) the township fund for a township in a county not having a consolidated city; or**

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**(2) the appropriate fund of the consolidated city for a county having a consolidated city.**

**(b) (c)** As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, the state, a political subdivision (as defined in IC 36-1-2-13), an agency of the state, or a political subdivision, or a group of those persons acting in concert.

**(d) As used in this chapter, "township trustee" or "trustee" means:**

**(1) a township trustee for a township in a county not having a consolidated city; or**

**(2) the consolidated city for a township in a county having a consolidated city.**

**(c) (e)** A person owning or possessing real estate in Indiana shall destroy detrimental plants by cutting or mowing and, if necessary, by plowing, cultivating, or smothering, or by the use of chemicals in the bud stage of growth or earlier, to prevent those detrimental plants from maturing on any such real estate.

SECTION 4. IC 15-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) A township trustee who has reason to believe that detrimental plants may be on real estate may, after giving forty-eight (48) hours notice to the owner or person in possession of the property, enter the real estate to investigate.

(b) Except as provided in subsection (c), if the township trustee determines after investigating the property or by visual inspection without entering the property that a person has detrimental plants growing on real estate in ~~the a township~~ **that comprises all or a part of the township trustee's jurisdiction** that have not been destroyed as described in section 1 of this chapter, the ~~trustee of the township in which the real estate is located~~ **township trustee** shall notify, in writing, the owner or person in possession of the real estate to destroy the detrimental plants in a manner provided in section 1 of this chapter within five (5) days after the notice is given. If the detrimental plants are not destroyed as provided in section 1 of this chapter within five (5) days after notice is given, the trustee shall cause the detrimental plants to be destroyed in a manner seeming most practical to the trustee within three (3) additional days. The trustee may hire a person to destroy the detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants, and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out such work, except for gross

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negligence or willful or wanton destruction.

(c) If the county has established a county weed control board under IC 15-3-4.6 the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(d) Notice required in subsection (a) or (b) may be given:

(1) by mail, using certified mail; or

(2) by personal service.

(e) Notice under subsection (d) is considered received by the owner or person in possession of the real estate:

(1) if sent by mail, on the earlier of:

(A) the date of signature of receipt of the mailing; or

(B) three (3) business days after the date of mailing; or

(2) if served personally, on the date of delivery.

SECTION 5. IC 15-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) The township trustee may pay for the chemicals, work, and labor performed in cutting or destroying detrimental plants under this chapter at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) In all cases in which the infestation of the land with detrimental plants is so great and widespread as in the opinion of the trustee to render such cutting or eradication by hand methods impractical, the trustee shall engage the necessary power machinery or equipment and may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work ~~in the office of~~ ~~with~~ the trustee, ~~of the township~~, and when the bill has been approved, the trustee shall pay the bill out of the ~~township~~ fund. The trustee ~~of the township~~ shall certify the cost or expense of the work, and the cost of the chemicals, adding to such bill twenty dollars (\$20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services, with a description of the real estate on which the labor was performed.

(d) The certified statement of costs prepared under subsection (c) shall be mailed using certificate of mailing to, or personally served on, the owner or person possessing the real estate. The certified statement shall be mailed to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in

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1 IC 5-11-1-16) for real estate owned by the municipality. The statement  
2 shall request that the person pay the cost of performing the service  
3 under subsection (c) to the township trustee.

4 (e) If the owner or person in possession of the property does not pay  
5 the amount set forth in the statement within ten (10) days after  
6 receiving the notice under subsection (d), the township trustee shall file  
7 a copy of the certified statement in the office of the county auditor of  
8 the county where the real estate is located **or, if the township is in a**  
9 **county having a consolidated city, the office of the city controller.**

10 (f) The auditor **or the city controller** shall place the amount  
11 claimed in the certified statement on the tax duplicate of the real estate.  
12 Except as provided in subsections (j) through (l), the amount claimed  
13 shall be collected as taxes are collected.

14 (g) After an amount described in subsection (f) is collected, the  
15 funds shall be deposited in the ~~trustee's township funds~~ **fund** for use at  
16 the discretion of the trustee.

17 (h) If there is no money available in ~~a the township~~ fund for that  
18 purpose, ~~the township board~~ upon finding an emergency exists:

19 **(1) the township legislative body** shall act under IC 36-6-6-14(b)  
20 or IC 36-6-6-15; **or**

21 **(2) a consolidated city shall act under IC 36-3-4;**  
22 to borrow a sum of money sufficient to meet the emergency.

23 (i) The trustee, when submitting estimates to the ~~township board~~  
24 **legislative body** for action, shall include in the estimates an item  
25 sufficient to cover those expenditures.

26 (j) This subsection applies to real estate owned by the state. The  
27 auditor of state shall issue a warrant to pay the amount set forth in the  
28 certified statement of costs for real estate owned by the state and shall  
29 charge the appropriate fund for the amount.

30 (k) This subsection applies to real estate owned by a municipality  
31 (as defined in IC 5-11-1-16) other than the township **or a consolidated**  
32 **city**. The fiscal officer of the municipality shall make the necessary  
33 appropriation from the appropriate fund to pay the township **or the**  
34 **consolidated city** the amount set forth in the certified statement of  
35 costs for real estate owned by the municipality.

36 (l) This subsection applies to real estate that is exempt from  
37 property taxation. The owner of the tax exempt real estate shall pay the  
38 amount set forth in the certified statement of costs for the tax exempt  
39 real estate. If the owner of the tax exempt real estate fails to pay the  
40 amount required by this chapter, the owner is ineligible for the property  
41 tax exemption, and the department of local government finance shall  
42 deny the property tax exemption for the real estate.

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SECTION 6. IC 15-3-4-4 IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE JANUARY 1, 2007]: Sec. 4. Except as provided in  
 section 3 of this chapter, the county auditor **or, if a township is in a  
 county having a consolidated city, the city controller**, upon  
 receiving and filing such trustee's certificate as prescribed in this  
 chapter, shall immediately place said amounts on the tax duplicate of  
 the county, and such amounts shall be due at the next tax paying time,  
 and shall be collected for the proper township, ~~or~~ townships, **or  
 consolidated city**, the same as other state, county, or township taxes  
 are collected, including penalties, forfeitures, and sales, and when so  
 collected shall be paid to the proper trustee and placed in the ~~township~~  
 fund.

SECTION 7. IC 15-3-4-5 IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) A person who:

- (1) knowingly allows detrimental plants to grow and mature on  
 land owned or possessed by the person;
- (2) knowing of the existence of detrimental plants on land owned  
 or possessed by the person, fails to cut them down or eradicate  
 them by chemicals each year, as prescribed in this chapter;
- (3) having charge of or control over any highway, knowingly  
 allows detrimental plants to grow or mature on the right-of-way  
 of the highway, or, knowing of the existence of the detrimental  
 plants fails to cut them down or eradicate them by chemicals, as  
 prescribed in this chapter;
- (4) having charge of or control over the right-of-way of a railroad  
 or interurban company, knowingly allows detrimental plants to  
 grow and mature thereon, or knowing of the existence of the  
 detrimental plants, fails to cut them down or eradicate them by  
 chemicals, as prescribed in this chapter; or
- (5) knowingly sells Canada thistle (*cirsium arvense*) seed;

commits a Class C infraction. Each day this section is violated  
 constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the  
 trustee and placed in the ~~trustee's township funds~~ **fund** for use at the  
 discretion of the trustee **or the consolidated city**.

SECTION 8. IC 15-3-4-7 IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE JANUARY 1, 2007]: Sec. 7. When the annual budget is  
 prepared, a sufficient amount shall be appropriated to enable the  
 township ~~officials~~ **trustee** to comply with this chapter.

SECTION 9. IC 15-3-4-8 IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) The Purdue University  
 cooperative extension service shall provide technical assistance to

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township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township **or a consolidated city** shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

SECTION 10. IC 15-3-4.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. The weed control board consists of the following members to be appointed by the authorizing body:

(1) One (1) **member appointed as follows:**

(A) **In a county not having a consolidated city, a township trustee of a township in the county.**

(B) **In a county having a consolidated city, the director of the department of the consolidated city that is responsible for the destruction of detrimental plants described in this chapter or the director's designee.**

(2) One (1) soil and water conservation district supervisor.

(3) A representative from the agricultural community of the county.

(4) A representative from the county highway department or an appointee of the county commissioners. ~~and~~

(5) A cooperative extension service agent from the county to serve in non-voting advisory capacity.

Each board member shall be appointed for a term of four (4) years. All vacancies in the membership of the board shall be filled for the unexpired term in the same manner as initial appointments. The board shall elect a chairman and a secretary. The members of the board are not entitled to receive any compensation, but are entitled to such traveling and other expenses as may be necessary in the discharge of their duties. The board may appoint an executive director and employ necessary technical, professional, and other assistants, and it shall fix the qualifications, duties, and salaries of these employees subject to the permission of the county council. The county highway supervisor and the soil and water conservation district supervisor or employee serving the county shall serve as inspectors for the board. They shall make periodic inspections and report their findings to the board and the executive director, if any.

SECTION 11. IC 15-3-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. The Indiana department of transportation, railroads, drainage districts, township boards, **except township boards of townships in a county having a consolidated city**, public utilities, and other public and quasi-public corporations shall, between July 1 and September 15, do anything

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possible to restrict the growth and seed production of all Johnson grass growing on lands for which they are responsible in a municipality or township of this state.

SECTION 12. IC 15-5-9-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.5. As used in this chapter, "assessor" means:**

**(1) for a township located in a county not having a consolidated city:**

**(A) the township assessor elected under IC 36-6-5-1; or**

**(B) the township trustee who is required by law to act as the assessor for the township the trustee serves; or**

**(2) for a township located in a county having a consolidated city, the controller of the consolidated city or the controller's designee.**

SECTION 13. IC 15-5-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) The ~~township~~ assessor shall make a diligent census as to the number of dogs owned, harbored, or kept by any person. A person owning or harboring a dog shall pay immediately to the ~~township~~ assessor a tax for each dog owned, harbored, or kept on the same premises, whether owned by that person or some other person, as follows:

(1) Except as provided in subsection (d), for each neutered dog, two dollars (\$2).

(2) For each nonneutered dog, four dollars (\$4).

(3) For each additional dog, six dollars (\$6).

No dog under six (6) months of age is subject to any tax under this chapter. Whoever becomes the owner or harborer of a dog after the dog census by the ~~township~~ assessor or any owner or harborer of a dog for which for any reason the assessor failed to collect the tax, shall, within thirty (30) days after becoming the owner or harborer of a dog, apply to the assessor or the assessor's designee, pay the required fee, and procure a tag for the dog.

(b) Dogs kept in kennels for breeding, boarding, or training purposes or for sale shall not be assessed an individual license fee, but the owner or keeper shall pay a kennel license fee according to the following schedule:

(1) For a major kennel, consisting of fifteen (15) or more dogs, a fee of thirty dollars (\$30).

(2) For a minor kennel, consisting of less than fifteen (15) dogs, a fee of twenty dollars (\$20).

For each individual dog tag or kennel license issued under this chapter,

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1 the ~~township~~ assessor (~~or trustee who collects the fee~~) shall retain from  
 2 the fee described in this section, an administrative fee of fifty cents  
 3 (\$0.50). Administrative fees collected by ~~the an~~ assessor **other than a**  
 4 **township trustee** shall be deposited in the county general fund, and  
 5 administrative fees collected by ~~the a township~~ trustee shall be  
 6 deposited in the township general fund.

7 (c) Upon the payment of the license fee required by subsection (b),  
 8 the ~~township~~ assessor shall deliver to the owner or keeper of the kennel  
 9 a proper license together with a metallic tag for each dog in such  
 10 kennel. The license shall be dated and numbered and shall bear the  
 11 name of the county issuing it and the name and address of the owner of  
 12 the kennel licensed, and a description of the breed, number, sex, and  
 13 age of the dogs kept in such kennel. Any person becoming the owner  
 14 of a dog kennel shall, within thirty (30) days after becoming the owner,  
 15 apply to the ~~township~~ assessor, township trustee, or assessor's designee  
 16 and, upon payment of the required fee, procure a license and a metallic  
 17 tag for all dogs kept in the kennel.

18 (d) A county council may increase the tax on neutered dogs imposed  
 19 under subsection (a) from two dollars (\$2) to three dollars (\$3).

20 (e) ~~A township An assessor (or a township trustee who has the~~  
 21 ~~duties of a township assessor)~~ may designate one (1) or more licensed  
 22 veterinarians or humane societies in the assessor's township **or county,**  
 23 **as the case may be,** to collect the dog taxes and kennel license fees  
 24 and issue the licenses under this chapter. A designee may retain  
 25 seventy-five cents (\$0.75) as a fee for that service and remit the  
 26 balance of the money collected to the ~~township trustee assessor who~~  
 27 **designated the designee** by the tenth day of each month. As used in  
 28 this subsection, "humane society" includes an animal shelter, animal  
 29 control center, or other animal impounding facility that has as its  
 30 purpose the humane treatment of animals.

31 SECTION 14. IC 15-5-9-2 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The  
 33 ~~township~~ assessor shall give to each person a receipt for the money  
 34 paid the assessor, which shall be designated for dog tax. The receipt  
 35 shall show the person's name who owns, harbors, or keeps the dog, the  
 36 amount paid, and the number, description, and kind of dogs paid for,  
 37 whether male or female, and the number of each. The receipt relieves  
 38 the person owning, keeping, or harboring dogs for the current year,  
 39 extending one (1) year from its date. The assessor shall keep a record  
 40 of persons owning dogs subject to taxation and a record of the dogs  
 41 paid for. The assessor shall keep a stub record or copy of the receipts  
 42 given for money paid as dog tax. The stub record shall show the

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amount paid, the number of dogs, both male and female, paid for, and the person's name owning the dogs paid for. At the time when the receipt is issued to the person, the assessor shall give to the person a tag, which shall be attached to the collar worn by the dog.

(b) Before July 1 each year, the ~~township~~ assessor, **except an assessor in a county having a consolidated city**, shall turn over to the township trustee all the records kept by the assessor relating to the collecting and payment of dog taxes and kennel license fees, and a copy of all receipts given by the assessor to persons having paid dog taxes and kennel license fees, and all money received by the assessor as dog taxes, and all tags left in the assessor's possession. The assessor shall assess against each person who failed to pay to the assessor the amount of any license fee owed by the person, and the amount of the license fees shall be placed upon the tax duplicate by the county auditor and collected as taxes are collected.

(c) From July 1 each year until March 1 of the next year, the ~~township trustee assessor~~ shall receive any license fees subject to be paid under this chapter and issue any licenses under this chapter that may be received or issued by the ~~township~~ assessor under this chapter.

SECTION 15. IC 15-5-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **This section does not apply to a township in a county having a consolidated city or to a consolidated city.** The ~~township~~ assessor shall, before July 1 each year, report the amount collected as dog tax and kennel license fees to the county auditor. The dog taxes and kennel license fees collected by ~~the a township~~ assessor shall be turned over by the **township** assessor to the township trustee of the **township** assessor's township. The county auditor shall make a record of the same, and charge the amount stated in the report against the township trustee as receipts from the county dog fund.

SECTION 16. IC 15-5-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Each ~~township~~ assessor shall perform the duties imposed by this chapter. If a dog owner has failed to turn in a dog for taxation purposes, the assessor shall notify the owner that the assessor is listing the unpaid taxes within a period of ten (10) days, at which time the person will be assessed double the amount of taxes provided by this chapter unless the person owning the dog appears voluntarily within the ten (10) days and:

- (1) proves to the satisfaction of the assessor that the person owned no such dog at the time the census was made; or
- (2) makes an affidavit to be kept on file by the assessor to the

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effect that the failure to report a dog for taxation was not intentional and was not purposely omitted for the purpose of avoiding payment of taxes.

(b) Each assessor shall keep a complete list of all dogs subject to the tax under this chapter together with the names of their owners on record in the assessor's office at all times and available to the public. If any person shall acquire, own, harbor, or keep any dog after the assessor has completed the census, the person shall report the dog to and pay to the assessor the amount of dog tax as provided in this chapter and receive a receipt and tag for the payment. The receipt and tag exempts the person from further payment of dog tax on dogs described in the receipt for one (1) year from the date of the receipt.

SECTION 17. IC 15-5-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. ~~A township~~ An assessor ~~or assessor's designee or township trustee~~ who:

- (1) fails to perform the duties imposed by this chapter; or
- (2) fails to make a complete report within the time specified in this chapter;

commits a Class C infraction.

SECTION 18. IC 15-5-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. Every person liable to taxation in any township and residing in the township when listed for taxation shall make and subscribe to an oath to the ~~township~~ assessor in which the person states the number of dogs neutered or unneutered over the age of six (6) months and owned or harbored by the person.

SECTION 19. IC 15-5-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) All money derived by the taxing of dogs under this chapter shall constitute a fund known as the township dog fund ~~or, in the case of a township located in a county having a consolidated city, the county dog fund~~ that the township trustee ~~or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city,~~ shall use in the manner provided in this chapter for the payment of the following:

- (1) Damages, less insurance proceeds, sustained by owners of the following stock, fowl, or game killed, maimed, or damaged by dogs:
  - (A) Sheep.
  - (B) Cattle.
  - (C) Horses.
  - (D) Swine.

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- 1 (E) Goats.  
 2 (F) Mules.  
 3 (G) Chickens.  
 4 (H) Geese.  
 5 (I) Turkeys.  
 6 (J) Ducks.  
 7 (K) Guineas.  
 8 (L) Tame rabbits.  
 9 (M) Game birds and game animals held in captivity under  
 10 authority of a game breeder's license issued by the department  
 11 of natural resources.  
 12 (N) Bison.  
 13 (O) Farm raised cervidae.  
 14 (P) Ratitae.  
 15 (2) The expense of taking the Pasteur treatment for hydrophobia  
 16 incurred by any person bitten by or exposed to a dog known to  
 17 have hydrophobia. ~~within any township of Indiana.~~  
 18 (b) Any person requiring the treatment described in subsection  
 19 (a)(2) may select the person's own physician.  
 20 (c) No damages shall be assessed or paid under this chapter on  
 21 sheep except where individual damage exists or is shown.  
 22 (d) This subsection applies to a county whose legislative body has  
 23 acted under this subsection. A county legislative body may designate  
 24 by ordinance one (1) humane society located in that county to receive  
 25 fifty cents (\$0.50) from each dog tax payment collected under this  
 26 chapter.  
 27 (e) A humane society designated under subsection (d) shall use the  
 28 funds disbursed to the society to maintain an animal shelter.  
 29 (f) If a county does not designate a humane society to receive  
 30 payments under subsection (d), those amounts remain in the township  
 31 dog fund **or, in the case of a county having a consolidated city, the**  
 32 **county dog fund.**  
 33 SECTION 20. IC 15-5-9-9.1 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9.1. (a) In order  
 35 to qualify for payment for damages by a township trustee **or, in the**  
 36 **case of a township located in a county having a consolidated city,**  
 37 **the controller of the consolidated city** under this chapter, the owner  
 38 of stock, fowl, or game listed in section 8(a)(1) of this chapter killed,  
 39 maimed, or damaged by dogs shall do the following:  
 40 (1) Not more than seventy-two (72) hours after the time of the  
 41 loss, notify one (1) of the following having jurisdiction in the  
 42 location where the loss occurred:

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(A) A law enforcement officer.

(B) An officer of a county or municipal animal control center, shelter, or similar impounding facility.

(2) Within twenty (20) days from the time of the loss, report the loss to the trustee ~~of his township~~ **of the owner's township or, in a township located in a county having a consolidated city, to the controller of the consolidated city** as follows:

(A) Under oath, the owner shall state:

(i) the number, age, and value of the stock, fowl, or game; and

(ii) the damages, less any insurance proceeds, sustained.

(B) In an affidavit, the owner must be joined by two (2) disinterested and reputable freeholders residing in the township in which the stock, fowl, or game were killed, maimed, or damaged. The affidavit must state that the freeholders are:

(i) disinterested; and

(ii) not related by blood or marriage to the claimant.

(C) No appraisal may exceed the actual cash value of the stock, fowl, or game. As it applies to ratitae, cash value is no more than the slaughter value.

(D) The owner shall provide verification of the loss by an officer under subdivision (1).

(E) No loss shall be paid for property owned by a claimant on the last property tax assessment date if the property was not reported by the owner for assessment purposes at that time.

(b) An officer who receives notice under subsection (a)(1) shall visit the scene of the loss, verify the loss in writing, and mark the animal so that the animal can support only one (1) claim under this chapter.

SECTION 21. IC 15-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The ~~trustees township trustee or the controller of the consolidated city~~ shall register and pay damages for all losses in the order in which the losses are reported.

(b) A person may not receive payment from the trustee ~~or the controller of the consolidated city~~ for stock, fowl, or game listed in section 8(a)(1) of this chapter:

(1) that are killed, maimed, or damaged by any dog or dogs owned or harbored by that person;

(2) for which the person received from another person an amount equal to the actual damages; or

(3) for which the owner has not complied with section 9.1 of this

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chapter.

(c) When rabies shall develop in any stock, fowl, or game listed in section 8(a)(1) of this chapter, however contracted, and when the existence of such disease shall be proven by:

(1) laboratory diagnosis, made in the laboratory of the state department of health, or some other laboratory maintained by state, county, or municipal funds; or

(2) affidavit of an attending legally qualified graduate veterinarian;

the owner of such animal with rabies shall be entitled to recover in the same amount and manner as provided in sections 8 and 9.1 of this chapter.

(d) Whenever any dog not accompanied by the dog's owner or owner's agent is suspected of having rabies and found roaming at large, and the dog dies or is destroyed on said account, the **township trustee or controller of the consolidated city** shall do the following:

(1) Remove or have removed the head of the dog.

(2) Pay from the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund**, the following:

(A) A reasonable fee for the removal of the dog's head.

(B) All charges for transporting the head to a laboratory maintained by state, county, or municipal funds. If no money is available in the **appropriate** dog fund, ~~of the township~~; then such necessary fees shall be paid out of the township **general fund or, in the case of a township located in a county having a consolidated city, the county general fund**, without appropriations having been made.

(e) On the first Monday of March of each year, the township shall transfer the following to the county treasurer:

(1) Any funds in a township dog fund designated for a humane society under section 8 of this chapter.

(2) Any amount in a township dog fund exceeding three hundred dollars (\$300) over and above orders drawn on the fund.

(f) The funds transferred to the county treasurer under subsection (e) shall be deposited in the county dog fund. On the second Monday in March of each year, the money in the county dog fund shall be distributed as follows:

(1) **Except for a township located in a county having a consolidated city**, among the townships of the county in which the orders drawn against the dog fund exceed the money on hand.

(2) To a humane society designated under section 8 of this

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chapter.

(g) If the funds in the county dog fund, after any distribution to a designated humane society, are insufficient to pay for all stock, fowl, or game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs ~~of all the townships~~ in the county, the distribution shall be made, **except in a township located in a county having a consolidated city**, in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for. The ratio shall be obtained from the report of the trustees of the townships made to the auditor of the county.

(h) The report under subsection (g) shall be made by each township trustee of the county upon the first Monday of March of each year and must show the following:

(1) All receipts into the dog fund of the township.

(2) All orders drawn against the township fund in the order in which the orders were drawn.

(i) If the funds in the dog fund of any township and the share of the county dog fund distributed to such township during any year **or, in the case of a township located in a county having a consolidated city, the county dog fund**, are insufficient to pay for all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs in such township **or county, as the case may be**, during such year, any such losses registered and any orders drawn which are unpaid and unprovided for shall be paid out of the state dog account.

(j) If upon the first Monday in May of any year there is a surplus left of the county dog fund after provisions have been made for the payment of all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs of all the townships of the county and the distribution to any designated humane society, the surplus shall be:

(1) paid to the auditor of state; and

(2) placed in a separate account of the general fund of the state treasury known as the state dog account.

SECTION 22. IC 15-5-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. On or before the first day of May of each year, the trustee of each township shall make a report in writing, to the county auditor, of the amount of all claims in ~~his~~ **the trustee's** township for livestock, fowls, or game which have been destroyed or damaged by dogs, and which claims have been filed before March 9, 1937, or which may be filed thereafter but have not been paid for lack of funds. On or before the second

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Monday in May of each year, the auditor of each county, **or, in a county having a consolidated city, the controller of the consolidated city**, shall make a report, in writing, to the auditor of state, in such form as the auditor of state shall prescribe, of the amount of all such claims in ~~his~~ **the** county which have been filed and which have not been paid for lack of funds, and on or before the second Monday in July, the auditor of state shall issue ~~his~~ **the auditor's** warrant, payable to the auditor of each such county **or, in a county having a consolidated city, the controller of the consolidated city**, for the amount of the unpaid claims. The warrant shall be drawn on the state dog account. Upon the receipt of the money, the auditor of the county **or, in a county having a consolidated city, the controller of the consolidated city**, shall distribute the funds to the respective townships of ~~his~~ **the** county entitled thereto **or, in the case of a county having a consolidated city, to the appropriate fund of the consolidated city**, and the trustee of the township **or controller of a consolidated city** shall pay all unpaid claims of ~~his~~ **the** township **or county** in the order in which the claims were filed. If in any year there is not sufficient money in the state dog account to pay all of the claims, the auditor of state shall make such distribution, as near as practicable, in proportion to the aggregate value of livestock, fowls, or game for the destruction of which or the damage to which claims have been filed in the respective counties, and the county auditor, **except in a county having a consolidated city**, shall distribute the money so received to the several townships in the same proportion. All money in excess of fifty thousand dollars (\$50,000) remaining in the state dog account, after such annual distribution shall have been made as hereinbefore provided, shall be distributed by the auditor of state in the manner following:

~~(a)~~ **(1)** One-half (1/2) of such excess or one hundred thousand dollars (\$100,000) of such excess, whichever sum is the lesser, shall be distributed to Purdue University for the School of Veterinary Science and Medicine to be used solely for canine disease research.

~~(b)~~ **(2)** The balance remaining of such excess, after the distribution to Purdue University is made as hereinbefore provided, shall be distributed to the general fund of each county in direct proportion to the total amount of money paid into the dog account on the second Monday in May by the county prior to the distribution.

Of the funds returned to the respective counties the county may, with the approval of the county commissioners and the county council,

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construct dog pounds within said counties.

SECTION 23. IC 15-5-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) At the time when the dog kennel license fee is paid to the ~~township~~ assessor, the assessor, at the time when the assessor issues a receipt, shall likewise furnish to the person a metal tag. The metal tag furnished shall be attached securely to the collar of the dog for which the license fee has been paid, and the collar, with the tag attached, shall be worn continuously by the dog.

(b) All license tags shall be of uniform design or color for any one (1) year, but the same color or shape shall not be used for any two (2) consecutive years. All tags shall be designed by the auditor of state, shall be paid for out of the state dog account, and shall be manufactured at the state prison in the same manner as motor vehicle registration plates. Each tag shall have a distinct number, and the number of the tag shall appear on the receipt issued to the owner of the dog.

(c) If any dog tag is lost, it shall be replaced without cost by the assessor upon application by the owner of the dog and upon the production of the receipt and a sworn statement of the facts regarding the loss of the tag. No license tag is transferable to another dog.

SECTION 24. IC 23-14-33-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 7.5. "Cemetery fund" means the:**

- (1) **township fund for a township in a county not having a consolidated city; or**
- (2) **cemetery fund of the consolidated city for a township in a county having a consolidated city.**

SECTION 25. IC 23-14-33-32.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 32.5. "Township" means:**

- (1) **a township in a county not having a consolidated city; or**
- (2) **the consolidated city for a township in a county having a consolidated city.**

SECTION 26. IC 23-14-33-32.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 32.6. "Township trustee" or "trustee" means:**

- (1) **a township trustee for a township in a county not having a consolidated city; or**
- (2) **the consolidated city for a township in a county having a**

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**consolidated city.**

SECTION 27. IC 23-14-64-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. All expenses incurred by the trustee in administering this chapter shall be paid out of the ~~township cemetery~~ fund of the township.

SECTION 28. IC 23-14-68-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) The township shall appropriate enough money to provide for the care, repair, and maintenance of each cemetery described in section 1(a) of this chapter that is located within the township. Funds shall be appropriated under this subsection in the same manner as other ~~township~~ appropriations.

(b) The township may levy a ~~township~~ cemetery tax to create a fund for maintenance of cemeteries under this chapter. If a fund has not been provided for maintenance of cemeteries under this chapter, part of the township fund **or other funds of the township** may be used.

SECTION 29. IC 23-14-69-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) If:

(1) no land suitable for a public cemetery is donated to a township; and

(2) ~~if~~ the township legislative body adopts a resolution approving the purchase;

the township ~~executive~~ may purchase land for the purpose of establishing a public cemetery.

(b) When land is purchased and conveyed to the township under subsection (a), the land must be set apart, kept in repair, and used as provided in section 6 of this chapter.

SECTION 30. IC 23-14-69-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9. All expenses incurred by the township trustee for administering this chapter shall be paid out of the ~~township cemetery~~ fund of the township.

SECTION 31. IC 32-26-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The trustee of each township, the county highway superintendent, the Indiana department of transportation, or other officer in control of the maintenance of a highway shall between January 1 and April 1 of each year, examine all hedges, live fences, natural growths along highways, and other obstructions described in section 1 of this chapter in their respective jurisdictions. **However, in a county having a consolidated city, the duties and obligations of a township trustee under this chapter are the responsibility of the consolidated city.** If there are hedges, live fences, other growths, or obstructions along the highways

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that have not been cut, trimmed down, and maintained in accordance with this chapter, the owner shall be given written notice to cut or trim the hedge or live fence and to burn the brush trimmed from the hedge or live fence and remove any other obstructions or growths.

(b) The notice required under subsection (a) must be served by reading the notice to the owner or by leaving a copy of the notice at the owner's usual place of residence.

(c) If the owner is not a resident of the township, county, or state where the hedge, live fence, or other obstructions or growth is located, the notice shall be served upon the owner's agent or tenant residing in the township, **county, or state**. If an agent or a tenant of the owner does not reside in the township, the notice shall be served by mailing a copy of the notice to the owner, directed to the owner's last known post office address.

(d) If the owner, agents, or tenants do not proceed to cut and trim the fences and burn the brush trimmed from the fences or remove any obstructions or growths within ten (10) days after notice is served, the township trustee, **consolidated city**, county highway superintendent, or Indiana department of transportation shall immediately:

- (1) cause the fences to be cut and trimmed or obstructions or growths removed in accordance with this chapter; and
- (2) burn the brush trimmed from the fences.

All expenses incurred under this subsection shall be assessed against and become a lien upon the land in the same manner as road taxes.

(e) The township trustee, **consolidated city**, county highway superintendent, or Indiana department of transportation having charge of the work performed under subsection (d) shall prepare an itemized statement of the total cost of the work of removing the obstructions or growths and shall sign and certify the statement to the county auditor of the county in which the land is located. The county auditor shall place the statement on the tax duplicates. The county treasurer shall collect the costs entered on the duplicates at the same time and in the same manner as road taxes are collected. The treasurer may not issue a receipt for road taxes unless the costs entered on the duplicates are paid in full at the same time the road taxes are paid. If the costs are not paid when due, the costs shall become delinquent, bear the same interest, be subject to the same penalties, and be collected at the same time and in the same manner as other unpaid and delinquent taxes.

SECTION 32. IC 32-26-9-0.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.6. As used in this chapter, "township" means:**

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- 1           **(1) a township in a county not having a consolidated city; or**  
 2           **(2) the consolidated city for a township located in a county**  
 3           **having a consolidated city.**

4           SECTION 33. IC 32-26-9-0.7 IS ADDED TO THE INDIANA  
 5 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.7. As used in this chapter,**  
 7 **"township trustee" or "trustee" means:**

- 8           **(1) a township trustee for a township in a county not having**  
 9           **a consolidated city; or**  
 10           **(2) the consolidated city for a township in a county having a**  
 11           **consolidated city.**

12           SECTION 34. IC 32-26-9-3 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) A partition  
 14 fence shall be built, rebuilt, and kept in repair at the cost of the property  
 15 owners whose properties are enclosed or separated by the fences  
 16 proportionately according to the number of rods or proportion of the  
 17 fence the property owner owns along the line of the fence, whether the  
 18 property owner's title is a fee simple or a life estate.

19           (b) If a property owner fails or refuses to compensate for building,  
 20 rebuilding, or repairing the property owner's portion of a partition  
 21 fence, another property owner who is interested in the fence, after  
 22 having built, rebuilt, or repaired the property owner's portion of the  
 23 fence, shall give to the defaulting property owner or the defaulting  
 24 property owner's agent or tenant twenty (20) days notice to build,  
 25 rebuild, or repair the defaulting property owner's portion of the fence.  
 26 If the defaulting property owner or the defaulting property owner's  
 27 agent or tenant fails to build, rebuild, or repair the fence within twenty  
 28 (20) days, the complaining property owner shall notify the township  
 29 trustee of the township in which the properties are located of the  
 30 default.

31           (c) This subsection applies if the fence sought to be established,  
 32 rebuilt, or repaired is on a township line. Unless disqualified under  
 33 subsection (h), the complaining property owner shall notify the trustee  
 34 of the township in which the property of the complaining property  
 35 owner is located of the default under subsection (b), and the trustee has  
 36 jurisdiction in the matter.

37           (d) The township trustee who receives a complaint under this  
 38 section shall:

- 39           (1) estimate the costs for building, rebuilding, or repairing the  
 40 partition fence; and  
 41           (2) within a reasonable time after receiving the complaint, make  
 42 out a statement and notify the defaulting property owner of the

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probable cost of building, rebuilding, or repairing the fence.  
 If twenty (20) days after receiving a notice under this subsection the defaulting property owner has not built, rebuilt, or repaired the fence, the trustee shall build or repair the fence. The trustee may use only the materials for the fences that are most commonly used by the farmers of the community.

(e) If the trustee of a township is disqualified to act under subsection (h), the trustee of an adjoining township who resides nearest to where the fence is located shall act on the complaint upon receiving a notice by a property owner who is interested in the fence.

(f) A lawful partition fence is any one (1) of the following that is sufficiently tight and strong to hold cattle, hogs, horses, mules, and sheep:

- (1) A straight board and wire fence, a straight wire fence, a straight board fence, or a picket fence four (4) feet high.
- (2) A straight rail fence four and one-half (4 1/2) feet high.
- (3) A worm rail fence five (5) feet high.

(g) This subsection applies if a ditch or creek crosses the division line between two (2) property owners, causing additional expense in the maintenance of the part over the stream. If the property owners cannot agree upon the proportionate share of each property owner, the township trustee shall appoint three (3) disinterested citizens who shall apportion the partition fence to be built by each property owner.

(h) If a township trustee is:

- (1) related to any of the interested property owners; or
- (2) an interested property owner;

~~the trustee of any other township who resides nearest to where the fence is located shall~~ **township shall appoint another official to act under this chapter.**

(i) This subsection applies if a ditch or creek forms, covers, or marks the dividing line or a part of the dividing line between the properties of separate and different property owners so that partition fences required under this chapter cannot be built and maintained on the dividing line. The partition fences shall be built and maintained under this chapter as near to the boundary line as is practical, and each property owner shall build a separate partition fence on the property owner's property and maintain the fence at the property owner's cost.

(j) This subsection applies where a partition fence required under this chapter crosses a ditch or creek and it is impracticable to construct or maintain that portion of the fence that crosses the ditch or creek as a stationary fence. Instead of the portion of the fence that would cross the ditch or creek, there shall be constructed, as a part of the partition

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fence, floodgates or other similar structures that are sufficiently high, tight, and strong to turn hogs, sheep, cattle, mules, and horses or other domestic animals. The floodgates or other similar structures shall be constructed to swing up in times of high water and to connect continuously with the partition fences.

(k) This subsection applies if the building and maintenance of the floodgates or other similar structure required under subsection (j) causes additional expenses and the property owners cannot agree upon the character of floodgates or other similar structure, or upon the proportionate share of the cost to be borne by each property owner. The township trustee, upon notice in writing from either property owner of a disagreement and the nature of the disagreement, shall appoint three (3) disinterested citizens of the township who shall determine the kind of structure and apportion the cost of the floodgate or other structure between the property owners, taking into consideration the parts of the fence being maintained by each property owner.

(l) The determination of a majority of the arbitrators of any matter or matters submitted to them under this section is final and binding on each property owner. The compensation of the arbitrators is two dollars (\$2) each, which shall be paid by the property owners in the proportion each property owner is ordered to bear the expense of a gate or structure.

(m) This subsection applies if either or both of the property owners fail to construct or compensate for constructing the structure determined upon by the arbitrators in the proportion determined within thirty (30) days after the determination. The township trustee shall proceed at once to construct the gate or structure and collect the cost of the gate or structure, including the compensation of the arbitrators, from the defaulting property owner in the same manner as is provided for ordinary partition fences. The floodgate or other structure shall be repaired, rebuilt, or replaced according to the determination of the arbitrators.

SECTION 35. IC 33-33-49-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. **(a) Except as provided in subsection (b),** the court has the following jurisdiction:

(1) Concurrent and coextensive jurisdiction with the Marion circuit court in all cases and upon all subject matters, including civil, criminal, juvenile, probate, and statutory cases and matters, whether original or appellate.

(2) Original and exclusive jurisdiction in all matters pertaining to the following:

(A) The probate and settlement of decedents' estates, trusts,

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and guardianships.

(B) The probate of wills.

(C) Proceedings to resist the probate of wills.

(D) Proceedings to contest wills.

(E) The appointment of guardians, assignees, executors, administrators, and trustees.

(F) The administration and settlement of:

(i) estates of protected persons (as defined in IC 29-3-1-13) and deceased persons;

(ii) trusts, assignments, adoptions, and surviving partnerships; and

(iii) all other probate matters.

(3) Original jurisdiction of all violations of Indiana law. Whenever jurisdiction is by law conferred on a small claims court, the court has the appellate jurisdiction provided by law.

(4) Original and exclusive juvenile jurisdiction.

**(b) The court does not have jurisdiction over infraction and ordinance violation cases as provided in IC 33-34-3-1.5 unless a case:**

**(1) involves a moving traffic violation as described in IC 33-34-3-1.5(b); or**

**(2) is transferred to the court under IC 33-34-3-1.5(c).**

SECTION 36. IC 33-34-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except for a claim between landlord and tenant **and infraction or ordinance violation proceedings**, a case within the jurisdiction of a small claims court may be:

(1) venued;

(2) commenced; and

(3) decided;

in any township small claims court within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims court shall determine in accordance with subsection (b) whether required venue lies with the court or with another small claims court in the county in which the small claims court action was filed.

(b) The venue determination to be made under subsection (a) must be made in the following order:

(1) In an action upon a debt or account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.

(2) Venue is in the township where a transaction or occurrence

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giving rise to any part of the claim took place.

(3) Venue is in the township (in a county of the small claims court) where the greater percentage of individual defendants included in the complaint resides, or, if there is not a greater percentage, the place where any individual named as a defendant:

(A) resides;

(B) owns real estate; or

(C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.

(4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims court sits in which required venue lies.

(c) Venue of any claim between landlord and tenant must be in the township where the real estate is located.

**(d) Venue of any infraction or ordinance violation proceeding must be in the township where the alleged infraction or ordinance violation occurred. However, the judge of the circuit court shall assign cases concerning unpaid fines imposed for violations of ordinances or statutes regulating the parking of vehicles as follows:**

**(1) Preferred venue for the cases is in the:**

**(A) Decatur Township small claims court;**

**(B) Franklin Township small claims court; or**

**(C) Perry Township small claims court.**

**(2) If the caseloads of the small claims courts listed in subdivision (1) make it impractical or burdensome to commence a case in any of those small claims courts, the judge of the circuit court shall assign the case to a small claims court located in any other township in Marion County not listed in subdivision (1).**

~~(d)~~ (e) If a written motion challenging venue is received by the small claims court, the court shall rule whether required venue lies in the township of filing.

SECTION 37. IC 33-34-3-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.5. (a) Except as provided in subsections (b) and (c), the court has original and exclusive jurisdiction over the following:**

**(1) All infraction cases.**

**(2) All ordinance violation cases.**

**(b) The court does not have jurisdiction over a case involving a moving traffic violation (as defined in IC 34-6-2-85).**

**(c) If a defendant in a case requests a jury trial under section**

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**11(b) of this chapter, the case shall be transferred to the superior court as provided in section 11(b) of this chapter.**

SECTION 38. IC 33-34-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The court has original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed ~~six ten~~ thousand dollars ~~(\$6,000)~~; **(\$10,000)**, not including interest or attorney's fees.

SECTION 39. IC 33-34-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The court has original and concurrent jurisdiction with the circuit and superior courts in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed ~~six ten~~ thousand dollars ~~(\$6,000)~~; **(\$10,000)**. The court also has original and concurrent jurisdiction with the circuit and superior courts in actions for the possession of property where the value of the property sought to be recovered does not exceed ~~six ten~~ thousand dollars ~~(\$6,000)~~; **(\$10,000)**. These jurisdictional limitations are not affected by interest and attorney's fees.

SECTION 40. IC 34-30-2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 58. IC 15-3-4-2 (Concerning township trustees, **a consolidated city**, or persons hired by them for the removal of detrimental plants upon another person's real property).

SECTION 41. IC 36-2-9.5-10, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The county auditor shall examine and settle all accounts and demands that are:

- (1) chargeable against the county or city; and
- (2) not otherwise provided for by statute.

(b) The county auditor shall issue warrants on the county or city treasury for:

- (1) sums of money settled and allowed by the county auditor;
- (2) sums of money settled and allowed by another official; or
- (3) settlements and allowances fixed by statute;

and shall make the warrants payable to the person entitled to payment. The warrants shall be numbered progressively, and the ~~controller~~ **county auditor** shall record the number, date, amount, payee, and purpose of issue of each warrant at the time of issuance.

SECTION 42. IC 36-2-9.5-13, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) The county auditor is responsible for

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the issuance of warrants for payments from county and city funds. **The signature of the county auditor may not be signed on, imprinted on, or affixed to any warrant for the payment of county or city funds without the approval of the county auditor.**

(b) The county auditor is responsible for:

- (1) accounting;
- (2) payroll, accounts payable, and accounts receivable;
- (3) revenue and tax distributions; and
- (4) maintenance of property records;

for all city and county departments, offices, and agencies.

**(c) The county auditor may take actions necessary to carry out the functions under subsection (b) without the approval of the controller of the consolidated city.**

SECTION 43. IC 36-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

- (1) Countywide equalization.
- (2) Selection and maintenance of a countywide computer system.
- (3) Certification of gross assessments to the county auditor.
- (4) Discovery of omitted property.

(b) The county assessor shall perform the functions of an assessing official under IC 36-6-5-2 in a township with a township assessor-trustee if the township assessor-trustee:

- (1) fails to make a report that is required by law;
- (2) fails to deliver a property tax record to the appropriate officer or board;
- (3) fails to deliver an assessment to the county assessor; or
- (4) fails to perform any other assessing duty as required by statute or rule of the department of local government finance;

within the time period prescribed by statute or rule of the department or within a later time that is necessitated by reason of another official failing to perform the official's functions in a timely manner.

(c) A township with a township trustee-assessor may, with the consent of the township board, enter into an agreement with:

- (1) the county assessor; or
- (2) another township assessor in the county;

to perform any of the functions of an assessing official. A township trustee-assessor may not contract for the performance of any function for a period of time that extends beyond the completion of the township trustee-assessor's term of office.

**(d) In a county having a consolidated city, the controller of the**

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1 **consolidated city or the controller's designee shall administer the**  
 2 **dog tax and township dog fund as prescribed by IC 15-5-9.**

3 SECTION 44. IC 36-3-4-14 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) An ordinance  
 5 or resolution passed by a legislative body is considered adopted when  
 6 it is:

7 (1) signed by the presiding officer; and

8 (2) if subject to veto, either approved by the executive or passed  
 9 over ~~his~~ **the executive's** veto by the legislative body, under  
 10 section 16 of this chapter.

11 (b) All ordinances and resolutions of a legislative body are subject  
 12 to veto, except the following:

13 (1) An ordinance or resolution, or part of either, providing for the  
 14 budget or appropriating money for an office or officer of the  
 15 county provided for by the Constitution of Indiana or for a judicial  
 16 office or officer.

17 (2) An ordinance or resolution approving or modifying the budget  
 18 of a political subdivision that the legislative body is permitted by  
 19 statute to review.

20 (3) A resolution making an appointment that the legislative body  
 21 is authorized to make.

22 (4) A resolution selecting officers or employees of the legislative  
 23 body.

24 (5) A resolution prescribing rules for the internal management of  
 25 the legislative body.

26 (6) A zoning ordinance or amendment to a zoning ordinance, or  
 27 a resolution approving a comprehensive plan, that is adopted  
 28 under IC 36-7.

29 **(7) An ordinance adopted by the legislative body to enter into**  
 30 **an interlocal cooperation agreement under IC 36-1-7 in**  
 31 **accordance with IC 36-3-8.**

32 (c) An ordinance prescribing a penalty or forfeiture for a violation  
 33 must, before it takes effect, be published in the manner prescribed by  
 34 IC 5-3-1, unless:

35 (1) it is published under subsection (d); or

36 (2) there is an urgent necessity requiring its immediate  
 37 effectiveness, the executive proclaims the urgent necessity, and  
 38 copies of the ordinance are posted in three (3) public places in the  
 39 county.

40 (d) If a legislative body publishes any of its ordinances in book or  
 41 pamphlet form, no other publication is required. If an ordinance  
 42 prescribing a penalty or forfeiture for a violation is published under this

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subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

- (1) of the ordinances in the book or pamphlet;
- (2) of the date of adoption of the ordinances; and
- (3) that the ordinances have been properly signed, attested, recorded, and approved.

(e) Unless a legislative body provides in an ordinance or resolution for a later effective date, the ordinance or resolution takes effect when it is adopted, subject to subsections (c) and (d).

(f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances or amendments to zoning ordinances, or resolutions approving comprehensive plans, that are adopted under IC 36-7.

SECTION 45. IC 36-3-5-2.7, AS ADDED BY P.L.227-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.7. (a) The office of finance and management is established and is responsible for:

- (1) budgeting, except as provided in subsection (c);
- (2) financial reporting and audits;
- (3) purchasing; and
- (4) fixed assets;

for all city and county departments, offices, and agencies.

(b) The controller:

- (1) serves as the director of; and
- (2) may organize into divisions;

the office of finance and management.

(c) The office of finance and management is not responsible for the issuance of warrants for payments from county and city funds. **A person may not sign or imprint the signature of the county auditor on, or affix the signature of the county auditor to, any warrant for the payment of county or city funds without the approval of the county auditor.**

SECTION 46. IC 36-3-5-2.8, AS ADDED BY P.L.227-2005, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.8. (a) Except as provided in subsections (b), ~~and~~ (c), **(d), and (e)**, the controller:

- (1) has all the powers; and
- (2) performs all the duties;

of the county auditor under law.

(b) The controller:

- (1) does not have the powers; and
- (2) may not perform the duties;

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of the county auditor under IC 36-2-9.5 and IC 36-3-6, or as a member of the board of commissioners of the county under IC 36-3-3-10.

(c) Notwithstanding subsection (a) or any other law, the executive, with the approval of the legislative body, may allocate the duties of the county auditor, except the duties referred to in subsection (b), among:

- (1) the controller;
- (2) the county assessor;
- (3) the county auditor; or
- (4) other appropriate city or county officials.

**(d) The county auditor is responsible for the payroll functions and duties for all city and county departments, offices, and agencies, and the controller may not perform these functions and duties, except as requested by the county auditor.**

**(e) The approval of the controller is not required for a human resources policy or personnel policy established under IC 36-3-7-6 by an elected county officer.**

SECTION 47. IC 36-3-7-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. Each elected county officer is responsible for establishing the human resources policies and personnel policies that apply to employees of the county officer. An elected county officer may establish these policies without the approval of any other person, except for approval of the county legislative body required under IC 36-3-6 for compensation of employees.**

SECTION 48. IC 36-3-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

**Chapter 8. Fire, Emergency Medical Services, and Safety Board**

**Sec. 1. This chapter applies to:**

- (1) the consolidated city;
- (2) an excluded city that has a fire department and adopts a resolution under section 7 of this chapter;
- (3) an excluded town that has a fire department and adopts a resolution under section 7 of this chapter; and
- (4) a township;

**in a county containing a consolidated city.**

**Sec. 2. As used in this chapter, "board" refers to the fire, emergency medical services, and safety board established by section 4 of this chapter.**

**Sec. 3. As used in this chapter, "unit" means a city, town, or township to which this chapter applies under section 1 of this chapter.**

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1       **Sec. 4. The fire, emergency medical services, and safety board**  
 2 **is established.**

3       **Sec. 5. (a) The board consists of the following members:**

4           **(1) The executive of the consolidated city.**  
 5           **(2) The executive of each of the following townships in the**  
 6 **county:**

- 7           **(A) Decatur Township.**
- 8           **(B) Franklin Township.**
- 9           **(C) Lawrence Township.**
- 10          **(D) Perry Township.**
- 11          **(E) Pike Township.**
- 12          **(F) Warren Township.**
- 13          **(G) Washington Township.**
- 14          **(H) Wayne Township.**

15          **(3) The executive of each excluded city that has a fire**  
 16 **department and adopts a resolution under section 7 of this**  
 17 **chapter.**

18          **(4) The executive of each excluded town that has a fire**  
 19 **department and adopts a resolution under section 7 of this**  
 20 **chapter.**

21          **(5) One (1) member who is an emergency medical professional**  
 22 **appointed jointly by the township executives of each township**  
 23 **in the county, excluding Center Township.**

24          **(6) One (1) member who is an emergency medical professional**  
 25 **appointed by the executive of the consolidated city.**

26          **(7) One (1) member who is an emergency medical professional**  
 27 **appointed by a local labor union that represents firefighters**  
 28 **employed by the consolidated city.**

29       **(b) The executive of the consolidated city shall serve as the**  
 30 **board's chairperson. The board shall meet at the call of the**  
 31 **chairperson.**

32       **(c) Members appointed under subsection (a)(5) through (a)(7)**  
 33 **are nonvoting members of the board.**

34       **Sec 6. (a) The term of a member appointed under section 5(a)(1)**  
 35 **through 5(a)(4) of this chapter is coextensive with the term of the**  
 36 **office held by the member at the time the member was appointed**  
 37 **to the board.**

38       **(b) A member appointed under section 5(a)(5) through 5(a)(7)**  
 39 **of this chapter serves a term of four (4) years. If a member ceases**  
 40 **to be a member of the board, the original appointing authority**  
 41 **shall appoint an individual to serve on the board for the remainder**  
 42 **of the unexpired term of the member.**

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1       **Sec. 7. (a) The legislative body of an excluded city or excluded**  
 2 **town must adopt a resolution to join the board. After adopting the**  
 3 **resolution, the legislative body shall send a copy of the resolution**  
 4 **to the board.**

5       **(b) An excluded city or excluded town may not resign from the**  
 6 **board after adopting a resolution under subsection (a).**

7       **Sec. 8. The board may determine whether all units represented**  
 8 **by the board shall jointly perform the following functions by**  
 9 **entering into interlocal cooperation agreements under IC 36-1-7:**

10       **(1) The process of purchasing equipment and supplies.**

11       **(2) Contracts for the following services:**

12           **(A) Health care.**

13           **(B) Worker's compensation.**

14           **(C) Liability insurance.**

15           **(D) Payroll services.**

16       **(3) Vehicle and apparatus maintenance.**

17       **(4) Wellness or fitness programs.**

18       **(5) Emergency medical services billing.**

19       **(6) Fire investigation and inspection.**

20       **(7) The process for hiring and recruit training.**

21       **(8) Special operations.**

22       **Sec. 9. (a) A quorum for a meeting of the board is determined as**  
 23 **follows:**

24       **STEP ONE: Determine the total number of voting members**  
 25 **serving on the board.**

26       **STEP TWO: Divide the number determined under STEP**  
 27 **ONE by two (2). If the quotient is not a whole number, round**  
 28 **the quotient down to the nearest whole number.**

29       **STEP THREE: Add one (1) to the quotient determined under**  
 30 **STEP TWO.**

31       **(b) The commission may not take any final action unless the**  
 32 **number of affirmative votes on the action equals at least the**  
 33 **number of members in a quorum.**

34       **Sec. 10. If the board adopts a resolution for a unit to enter into**  
 35 **an interlocal cooperation agreement with the other units, the board**  
 36 **shall submit the resolution and the interlocal cooperation**  
 37 **agreement to the legislative body of each unit. If the unit is:**

38       **(1) a city or town, the legislative body of the city or town shall**  
 39 **enter into the interlocal cooperation agreement by adopting**  
 40 **an ordinance as set forth in IC 36-1-7-2, not later than fifteen**  
 41 **(15) days after the resolution and interlocal cooperation**  
 42 **agreement are presented to the legislative body; or**

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(2) a township, the legislative body of the township shall enter into the interlocal cooperation agreement by adopting a resolution as set forth in IC 36-1-7-2, not later than fifteen (15) days after the resolution and interlocal cooperation agreement are adopted by the board.

Sec. 11. If the units enter into an interlocal agreement, the units shall pay a pro rata share of all administrative and other costs incidental to the interlocal agreement.

Sec. 12. The units may enter into an interlocal agreement under this chapter to pay a pro rata share of all administrative and other costs incidental to the maintenance and operation of the education center (as defined in IC 36-3-9-4).

SECTION 49. IC 36-3-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

**Chapter 9. Fire and Emergency Services Training Advisory Board**

Sec. 1. This chapter applies only to a county containing a consolidated city.

Sec. 2. As used in this chapter, "advisory board" refers to the fire and emergency services training advisory board established by section 6 of this chapter.

Sec. 3. As used in this chapter, "education board" refers to the board of firefighting personnel standards and education established by IC 22-12-3-1.

Sec. 4. As used in this chapter, "education center" refers to the Emergency Services Education Center located in Wayne Township in the county containing the consolidated city.

Sec. 5. As used in this chapter, "safety board" refers to the fire, emergency medical services, and safety board established by IC 36-3-8-4.

Sec. 6. The fire and emergency services training advisory board is established.

Sec. 7. (a) The advisory board consists of the following members:

(1) The fire chief, or the fire chief's designee, of the fire department of the consolidated city.

(2) The fire chief, or the fire chief's designee, of each of the following townships in the county:

(A) Decatur Township.

(B) Franklin Township.

(C) Lawrence Township.

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- 1 (D) Perry Township.  
 2 (E) Pike Township.  
 3 (F) Warren Township.  
 4 (G) Washington Township.  
 5 (H) Wayne Township.  
 6 (3) The fire chief, or the fire chief's designee, of each excluded  
 7 city that joins the safety board.  
 8 (4) The fire chief, or the fire chief's designee, of each excluded  
 9 town that joins the safety board.  
 10 (5) One (1) member who is a medical director of an  
 11 emergency medical services agency appointed by the  
 12 executive of the consolidated city.  
 13 (6) One (1) member who is:  
 14 (A) a firefighter employed by the fire department of the  
 15 consolidated city;  
 16 (B) a member or officer of a local labor union that  
 17 represents firefighters employed by the fire department of  
 18 the consolidated city; and  
 19 (C) appointed by the local labor union referred to in clause  
 20 (B).  
 21 (7) One (1) member who is appointed jointly by the executives  
 22 of townships that have a township fire department in the  
 23 county containing a consolidated city. The member appointed  
 24 under this subdivision must be a firefighter employed by a  
 25 township fire department.  
 26 (b) A member of the advisory board serves a term of four (4)  
 27 years. However, the member ceases to be a member of the advisory  
 28 board if the member ceases to be employed in the position or hold  
 29 the office required for appointment to the advisory board.  
 30 (c) If a member ceases to be a member of the advisory board,  
 31 the original appointing authority shall appoint an individual to  
 32 serve on the advisory board for the balance of the unexpired term  
 33 of the member.  
 34 Sec. 8. (a) A quorum for a meeting of the advisory board is  
 35 determined as follows:  
 36 STEP ONE: Determine the total number of members serving  
 37 on the advisory board.  
 38 STEP TWO: Divide the number determined under STEP  
 39 ONE by two (2). If the quotient is not a whole number, round  
 40 the quotient down to the nearest whole number.  
 41 STEP THREE: Add one (1) to the quotient determined under  
 42 STEP TWO.

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(b) The advisory board may not take any final action unless the number of affirmative votes on the action equals at least the number of members in a quorum.

Sec. 9. (a) The advisory board shall annually elect a chairperson from the members of the advisory board.

(b) The chairperson may be reelected to serve consecutive terms as chairperson.

(c) The advisory board shall meet at the call of the chairperson.

Sec. 10. (a) After June 30, 2006, the minimum basic training established by the education board under IC 36-8-10.5 shall be conducted at the education center.

(b) The advisory board may adopt recommendations for firefighter standards and education to supplement the minimum basic training established by the education board under IC 36-8-10.5. The advisory board shall submit any recommendations to the safety board for approval. The safety board may require any supplemental education to be conducted at the education center.

Sec. 11. (a) A fire department must reimburse the education center for any training costs, including fees and charges for:

- (1) tuition;
- (2) lodging;
- (3) meals;
- (4) instructors;
- (5) training materials; and
- (6) any other necessary items or services.

(b) The safety board shall establish the fees and costs charged to a fire department under this section.

SECTION 50. IC 36-4-6-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14.5. An ordinance adopted by the legislative body to enter into an interlocal cooperation agreement under IC 36-1-7 in accordance with IC 36-3-8 is not subject to veto by the executive. The ordinance takes effect when it is adopted.**

SECTION 51. IC 36-6-4-3, AS AMENDED BY P.L.73-2005, SECTION 173, AND AS AMENDED BY P.L.227-2005, SECTION 36, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 3. The executive shall do the following:**

- (1) Keep a written record of official proceedings.
- (2) Manage all township property interests.

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- (3) Keep township records open for public inspection.
- (4) Attend all meetings of the township legislative body.
- (5) Receive and pay out township funds.
- (6) Examine and settle all accounts and demands chargeable against the township.
- (7) Administer ~~poor relief~~ township assistance under IC 12-20 and IC 12-30-4.
- (8) Perform the duties of fence viewer under IC 32-26, **except in a township that is located in a county having a consolidated city as provided in IC 32-26-9.**
- (9) Act as township assessor when required by IC 36-6-5.
- (10) Provide and maintain cemeteries under IC 23-14, **except in a township that is located in a county having a consolidated city.**
- (11) Provide fire protection under IC 36-8, *except in a township that:*
  - (A) is located in a county having a consolidated city; and
  - (B) consolidated the township's fire department under IC 36-3-1-6.1.
- (12) File an annual personnel report under IC 5-11-13.
- (13) Provide and maintain township parks and community centers under IC 36-10, **except in a township that is located in a county having a consolidated city.**
- (14) Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4, **except in a township that is located in a county having a consolidated city.**
- (15) Provide insulin to the poor under IC 12-20-16.
- (16) Perform other duties prescribed by statute.

SECTION 52. IC 36-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) **Except as provided in subsection (b),** the assessor shall perform the duties prescribed by statute, including:

- (1) assessment duties prescribed by IC 6-1.1; and
- (2) administration of the dog tax and dog fund, as prescribed by IC 15-5-9.

**(b) In a township located in a county having a consolidated city, the duties of the township assessor prescribed by IC 15-5-9 are performed by the controller of the consolidated city or the controller's designee.**

SECTION 53. IC 36-6-6-2, AS AMENDED BY P.L.240-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b) and

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section 2.1 of this chapter, a three (3) member township board shall be elected under IC 3-10-2-13 by the voters of each township.

(b) The township board in a county containing a consolidated city shall consist of ~~seven (7)~~ **five (5)** members elected under IC 3-10-2-13 by the voters of each township.

(c) The township board is the township legislative body.

(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 54. IC 36-7-4-901 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 901. (a) As a part of the zoning ordinance, the legislative body shall establish a board of zoning appeals.

(b) The board of zoning appeals is composed of one (1) division, unless the zoning ordinance is amended under this subsection. Whenever considered desirable, the zoning ordinance may be amended to establish an additional one (1), two (2), or three (3) divisions of the board of zoning appeals.

(c) After January 1, 1984, whenever any divisions of the board of zoning appeals are established or reestablished by the zoning ordinance, the ordinance must provide for each division to consist of five (5) members appointed in accordance with section 902 of this chapter.

(d) The board of zoning appeals shall be known as:

- (1) the advisory board of zoning appeals (under the advisory planning law);
- (2) the area board of zoning appeals (under the area planning law); or
- (3) the metropolitan board of zoning appeals (under the metropolitan development law).

(e) Except as provided in this section, **and section 901.5 of this chapter**, a board of zoning appeals has territorial jurisdiction over all the land subject to the zoning ordinance, and if the board has more than one (1) division, all divisions have concurrent jurisdiction within that territory.

(f) ADVISORY—AREA. The zoning ordinance may provide that any additional division of the board of zoning appeals, having been established under subsection (b), is to have only limited territorial jurisdiction. The zoning ordinance must describe the limits of that division's territorial jurisdiction and specify whether that division has exclusive or concurrent jurisdiction within that territory.

(g) METRO. Any municipal board of zoning appeals that was

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1 established by an excluded city under IC 18-7-2-61 (before its repeal  
 2 on September 1, 1981) continues as the board of zoning appeals for  
 3 that municipality. A board of zoning appeals for an excluded city has  
 4 exclusive territorial jurisdiction within the corporate boundaries of that  
 5 municipality. All divisions of the metropolitan board of zoning appeals  
 6 have concurrent territorial jurisdiction throughout the remainder of the  
 7 county. The legislative body of the consolidated city may adopt  
 8 ordinances to regulate the time of the meetings and the voting  
 9 procedures of the metropolitan board of zoning appeals.

10 (h) ADVISORY. Any board of zoning appeals that was established  
 11 under IC 18-7-3-11 continues as the board of zoning appeals for that  
 12 jurisdiction, until otherwise provided by the zoning ordinance.

13 (i) AREA. Any board of zoning appeals that was established under  
 14 the advisory planning law and continued in existence under the area  
 15 planning law continues as the board of zoning appeals for that  
 16 jurisdiction, until otherwise provided by the zoning ordinance.

17 (j) AREA. Any board of zoning appeals that was established under  
 18 the area planning law as a seven (7) member board continues as the  
 19 area board of zoning appeals, until otherwise provided by the zoning  
 20 ordinance.

21 (k) METRO. The zoning ordinance may provide that a historic  
 22 preservation commission created under IC 36-7-11.1-3 may exercise  
 23 the powers of a board of zoning appeals within a historic area or  
 24 historic zoning district established under IC 36-7-11.1-6. **The zoning**  
 25 **ordinance shall provide that a historic preservation commission**  
 26 **created under IC 36-7-11.1-3 exercises the powers of a township**  
 27 **board under section 901.5 of this chapter within a historic area or**  
 28 **historic zoning district established under IC 36-7-11.1-6.** However,  
 29 this subsection does not eliminate the need for a historic preservation  
 30 commission to issue a certificate of appropriateness under  
 31 IC 36-7-11.1-8(e) before the approval of a variance by either:

32 (1) a board of zoning appeals; or

33 (2) a historic preservation commission exercising the powers of  
 34 a board of zoning appeals.

35 SECTION 55. IC 36-7-4-901.5 IS ADDED TO THE INDIANA  
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 37 [EFFECTIVE JANUARY 1, 2007]: **Sec. 901.5. (a) METRO. Except**  
 38 **as provided in subsection (b), this section applies to a township**  
 39 **that:**

40 (1) **is in a county having a consolidated city; and**

41 (2) **has a population of not more than one hundred fifty**  
 42 **thousand (150,000).**

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1       **(b) This section does not apply to any part of an excluded city**  
 2       **that has a board of zoning appeals under section 901(g) of this**  
 3       **chapter.**

4       **(c) As used in this chapter, "legislative body" refers to the**  
 5       **legislative body of a township to which this section applies.**

6       **(d) Except as provided in subsection (e), the legislative body**  
 7       **shall act and have all the duties and responsibilities of a board of**  
 8       **zoning appeals with respect to approving or rejecting all petitions**  
 9       **for:**

- 10           **(1) variances;**
- 11           **(2) special exceptions;**
- 12           **(3) special uses;**
- 13           **(4) contingent uses; and**
- 14           **(5) conditional uses;**

15       **relating to property wholly or partially in the township that is not**  
 16       **located within the jurisdiction of the consolidated city or an**  
 17       **excluded city.**

18       **(e) The zoning ordinance may provide that a historic**  
 19       **preservation commission created under IC 36-7-11.1-3 may**  
 20       **exercise the powers of a township legislative body with respect to**  
 21       **approving or rejecting a petition listed under subsection (d) within**  
 22       **a historic area or historic zoning district established under**  
 23       **IC 36-7-11.1-6.**

24       **SECTION 56. IC 36-7-4-918.8 IS AMENDED TO READ AS**  
 25       **FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 918.8. (a) This**  
 26       **section does not apply to a township in which the township**  
 27       **legislative body exercises the powers of a board of zoning appeals**  
 28       **under section 901.5 of this chapter.**

29       ~~(a)~~ **(b) METRO.** In connection with its consideration of a proposed  
 30       ordinance for the amendment of the zoning ordinance proposed under  
 31       section 607(c)(2) of this chapter, the metropolitan development  
 32       commission may exercise the powers of the metropolitan board of  
 33       zoning appeals for the purpose of approving or denying:

- 34           **(1) a variance from the development standards of the zoning**  
 35           **ordinance; or**
- 36           **(2) a special exception, special use, contingent use, or conditional**  
 37           **use from the terms of the zoning ordinance.**

38       ~~(b)~~ **(c) METRO.** The commission may, by rule, establish procedures  
 39       so that the power of the commission to recommend amendment of  
 40       zoning ordinances and the power of the commission to approve and  
 41       deny these variances, exceptions, and uses may be exercised  
 42       concurrently. These rules may be inconsistent with the 900 series to the

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1 extent reasonably necessary to allow the commission to exercise the  
 2 power to approve or deny these variance, exception, and use petitions.

3 ~~(c)~~ **(d)** METRO. When acting under this section, the commission  
 4 may:

5 (1) vote on the amendment to the zoning ordinance and the  
 6 variance, exception, or use petition at the same time; and

7 (2) condition the approval of variance, exception, or use in such  
 8 a manner that it takes effect when the recommended ordinance  
 9 amendment is approved by the legislative body.

10 ~~(d)~~ **(e)** METRO. Section 922 of this chapter does not apply to  
 11 variances, exceptions, and uses approved under this section.

12 SECTION 57. IC 36-7-4-922 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 922. **(a) This**  
 14 **section does not apply to the appeal of approval of a special**  
 15 **exception, a special or conditional use, or a variance from the**  
 16 **terms of a zoning ordinance by a township legislative body**  
 17 **exercising the powers of a board of zoning appeals under section**  
 18 **901.5 of this chapter.**

19 ~~(a)~~ **(b)** METRO. An official designated by the metropolitan  
 20 development commission may appeal to the metropolitan development  
 21 commission any decision of a board of zoning appeals regarding an  
 22 administrative appeal, or approving a special exception, a special or  
 23 conditional use, or a variance from the terms of the zoning ordinance.  
 24 The official must file in the office of the department of metropolitan  
 25 development a notice of appeal within five (5) days after the board files  
 26 a copy of the decision in the office of the board. However, if a  
 27 representative of the department of metropolitan development appears  
 28 at the hearing at which the administrative appeal is decided, or the  
 29 special exception, special or conditional use, or variance is approved,  
 30 then the official must file the notice of appeal within five (5) days after  
 31 the board has rendered its decision. The notice must certify that the  
 32 decision raises a substantial question of zoning policy appropriate for  
 33 consideration by the commission. The commission shall hear the  
 34 appeal at its next regular meeting held not less than five (5) days after  
 35 the notice of appeal is filed.

36 ~~(b)~~ **(c)** METRO. In hearing appeals under this section, the  
 37 metropolitan development commission sits as a board of zoning  
 38 appeals and shall be treated as if it is a board for purposes of this  
 39 section. The commission may accept into evidence the written record,  
 40 if any, of the hearing before the board of zoning appeals, along with  
 41 other evidence introduced by the staff or interested parties. The  
 42 commission shall consider the matter de novo, but the decision of the

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board is considered affirmed unless two-thirds (2/3) of the commission members voting vote to deny the administrative appeal, exception, use, or variance.

~~(c)~~ **(d)** METRO. Although persons other than the designated official may not appeal a decision of a board of zoning appeals to the metropolitan development commission, they may appear as interested parties in appeals under this section. No public notice need be given of the hearing of an appeal under this section, but the official shall promptly mail notice of the subject of the appeal and date and place of the hearing to each adverse party. However, if the record of the board shows that more than three (3) proponents or more than three (3) remonstrators appeared, then the official need mail notice only to the first three (3) of each as disclosed by the record.

SECTION 58. IC 36-7-4-923 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 923. (a) This section allows the establishment of an alternate procedure by the plan commission under which there can be a more expedient disposition of certain matters. When authorized by the plan commission, a hearing officer has the power of a board of zoning appeals to approve or deny, through the alternate procedure allowed by this section:

- (1) a variance from the development standards of the zoning ordinance in accordance with section 918.5 of this chapter; or
- (2) a special exception, special use, contingent use, or conditional use from the terms of the zoning ordinance in accordance with section 918.2 of this chapter; or
- (3) a variance of use from the terms of the zoning ordinance in accordance with section 918.4 of this chapter; however, the authority of a hearing officer under this subdivision may be exercised only if:

- (A) the area planning law is not applicable; and

- (B) the variance of use would allow all of the following:

- (i) The expansion of a use currently existing on the tract.
- (ii) A use that is consistent with the comprehensive plan.

(b) All requirements for variances, exceptions, and uses imposed by the 900 series apply to the alternate procedure, except to the extent that a provision of section 924 of this chapter imposes a different requirement.

(c) The alternate procedure does not apply in any excluded city as described in IC 36-3-1-7 **or a township in which the township legislative body exercises the powers of a board of zoning appeals under section 901.5 of this chapter.** Sections 919(f) and 922 of this chapter do not apply to the alternate procedure.

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(d) The hearing officer (who may be a board member, a staff member, or any other person) shall be appointed by the plan commission. More than one (1) hearing officer may be appointed. A hearing officer may be removed from ~~his~~ **the hearing officer's** responsibilities at any time by the plan commission.

(e) METRO. The plan commission may adopt other rules for the alternate procedure not inconsistent with the 900 series of the metropolitan development law. These rules may specify the period during which the staff may indicate whether the staff objects to the proposed variance, exception, or use. These rules may also provide for public notice and due notice to interested parties in accordance with section 920(b), 920(c), and 920(d) of this chapter, but the rules may, because of the nature of the petitions heard under the alternate procedure, provide for a less inclusive definition of "interested person" and provide for a quicker and less burdensome method of giving notice to interested persons than rules applicable to petitions not filed under the alternate procedure. For purposes of subsection (d), the director of the department of metropolitan development shall nominate, and the plan commission shall appoint, all hearing officers; such a hearing officer may be removed from ~~his~~ **the hearing officer's** responsibilities at any time by either the director or the plan commission.

(f) METRO. The plan commission may, if requested by a historic preservation commission created under IC 36-7-11.1-3, appoint:

- (1) a member of the historic preservation commission;
- (2) a member of the historic preservation staff; or
- (3) a person who is an employee of the department of metropolitan development;

as a hearing officer to act in a historic area or historic zoning district created under IC 36-7-11.1-6. The hearing officer may be removed from the hearing officer's responsibilities at any time by either the historic preservation commission or the plan commission.

SECTION 59. IC 36-7-4-1003 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1003. (a) Each decision of the legislative body under section 918.6 of this chapter or the board of zoning appeals **or a township legislative body that has the powers of a board of zoning appeals under section 901.5 of this chapter** is subject to review by certiorari. Each person aggrieved by a decision of the board of zoning appeals, **the township board**, or the legislative body may file with the circuit or superior court of the county in which the premises affected are located, a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. No change of venue from the county in which

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the premises affected are located may be had in any cause arising under this section.

(b) ADVISORY. The person shall file the petition with the court within thirty (30) days after the date of that decision of the board of zoning appeals.

(c) AREA. The person shall file the petition with the court within thirty (30) days after the date of that decision of the board of zoning appeals.

(d) METRO. **Except as provided in subsection (e),** the person shall file the petition with the court after the expiration of the period within which an official designated by the metropolitan development commission may file an appeal under section 922 of this chapter but within thirty (30) days after the date of that decision of the board of zoning appeals. However, if the official files an appeal, then only the decision of the metropolitan development commission sitting as a board of zoning appeals is subject to review by certiorari, in accordance with this section. The official or department of metropolitan development may not seek review by certiorari of a decision of a board of zoning appeals or the commission sitting as a board of zoning appeals.

**(e) METRO. This subsection applies only to a township for which the township legislative body has the powers of a board of zoning appeals under section 901.5 of this chapter. The person shall file the petition with the court within thirty (30) days after the date of that decision of the township legislative body.**

SECTION 60. IC 36-7-4-1005 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1005. (a) On filing a petition for a writ of certiorari with the clerk of the court, the petitioner for the writ of certiorari shall give notice of the petition as follows:

(1) If the petitioner is the applicant or petitioner for the use, special exception, or variance, the petitioner shall have a notice served by the sheriff of the county on each adverse party as shown by the record of the case in the office of the board of zoning appeals **or the township legislative body.**

(2) If the petitioner is not the applicant for the use, special exception, or variance and is a person aggrieved by the decision of a board of zoning appeals **or the township legislative body** as set forth in section 1003 of this chapter, the petitioner shall have a notice served by the sheriff of the county on:

(A) each applicant or petitioner for the use, special exception, or variance; and

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(B) each owner of the property that is the subject of the application or petition for the use, special exception, or variance.

The service of the notice by the sheriff on the chairman or secretary of the board of zoning appeals **or the chairman of the township legislative body** constitutes notice of the filing of the petition to the board of zoning appeals, **to the township legislative body**, to the municipality or county, and to any municipal or county official or board charged with the enforcement of the zoning ordinance. No other summons or notice is necessary when filing a petition.

(b) An adverse party under this section is any property owner whose interests are opposed to the petitioner for the writ of certiorari and who appeared at the hearing before the board of zoning appeals **or township legislative body** either in person or by a written remonstrance or other document that is part of the hearing record. If the petitioner was an unsuccessful appellant in the administrative appeal, or an unsuccessful petitioner or applicant for a variance, special exception, or special or conditional use, and the record shows a written remonstrance or other document opposing the interest of the petitioner that contains more than three (3) names, the petitioner shall have notice served on the three (3) property owners whose names appear first on the remonstrance or document. Notice to the other persons named is not required.

(c) Notice given under subsection (a) must state:

- (1) that a petition for a writ of certiorari, asking for a review of the decision of the board of zoning appeals **or the township legislative body** has been filed in the court;
- (2) the premises affected; and
- (3) the date of the decision.

(d) An adverse party who is entitled to notice of a petition for writ of certiorari under subsection (a) is not required to be named as a party to the petition for writ of certiorari.

SECTION 61. IC 36-7-4-1006 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1006. The court shall direct the board of zoning appeals **or the township legislative body**, within twenty (20) days after the date the petition is filed, to show cause why a writ of certiorari should not issue. If the board **or township legislative body** fails to show to the satisfaction of the court that a writ should not issue, then the court may allow a writ of certiorari directed to the board. The writ must prescribe the time in which a return shall be made to it. This time must not be less than ten (10) days from the date of issuance of the writ, and the court may extend the

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time.

SECTION 62. IC 36-7-4-1008 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1008. (a) The board of zoning appeals **or a township legislative body** shall, in the return to the writ of certiorari, concisely set forth such facts and data as may be pertinent and present material to show the grounds of the decision on appeal. The secretary of the board **or township legislative body** shall verify the return. The board **or township legislative body** may not be required to return the original papers acted on by it. It is sufficient to return certified copies of all or such part of the papers as may be called for by the writ.

(b) If the writ of certiorari calls for a transcript of the hearing before the board **or township legislative body**, the petitioner shall pay the costs of preparing the transcript.

SECTION 63. IC 36-7-4-1009 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1009. The court may determine the sufficiency of the statements of illegality contained in the petition, without further pleadings, and may make its determination and render its judgment with reference to the legality of the decision of the board of zoning appeals **or the township legislative body**, on the facts set out in the return to the writ of certiorari. If the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence to supplement the evidence and facts disclosed by the return to the writ of certiorari, but the review may not be by trial de novo. In passing on the legality of the decision of the board **or legislative body**, the court may reverse, affirm, or modify the decision of the board **or legislative body** brought up for review.

SECTION 64. IC 36-7-4-1010 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1010. (a) Costs may not be allowed against the board of zoning appeals **or a township legislative body** unless it appears to the court that the board acted with gross negligence or in bad faith in making the decision brought up for review.

(b) Issues in any proceeding under sections 1003 through 1009 of this chapter have preference over all other civil actions and proceedings.

SECTION 65. IC 36-7-4-1011 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1011. An appeal may be taken to the court of appeals from the final judgment of the court reversing, affirming, or modifying the decision of the board of zoning appeals **or township legislative body**. This appeal must be taken in the same manner and on the same terms as appeals in other

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1 civil actions.

2 SECTION 66. IC 36-7-4-1019 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1019. In an  
4 enforcement action brought under this chapter, the party alleging the  
5 existence of a nonconforming use or variance granted by a board of  
6 zoning appeals **or a township legislative body** has the burden of proof  
7 on that issue. The nonexistence of a nonconforming use or variance  
8 need not be proved.

9 SECTION 67. IC 36-7-11.1-5 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) The  
11 commission may do the following:

12 (1) Acquire by purchase, gift, grant, bequest, devise, or lease any  
13 real or personal property needed for carrying out any of the  
14 purposes of this commission. Title to or interest in any real  
15 property acquired or held by the commission must be in the name  
16 of the consolidated city for the use and benefit of the commission.

17 (2) Hold, use, sell, lease, rent, or otherwise dispose of any  
18 property acquired for use in the carrying out of any of the  
19 purposes of the commission at public or private sale and on terms  
20 and conditions as the commission considers best, notwithstanding  
21 any other law.

22 (3) Preserve and restore areas and structures of historic or  
23 architectural significance.

24 (4) Conduct research and prepare a countywide comprehensive  
25 survey and inventory, and review and evaluate areas, structures,  
26 and sites of historic importance in the county for use by planning  
27 agencies and governmental officials.

28 (5) Identify by declaratory resolution areas, structures, and sites  
29 in the county having historic or architectural significance, and  
30 prepare historic preservation plans for them. The commission may  
31 prepare proposed historic district zoning classifications, including  
32 proposals for controlling the use and development of any historic  
33 area or areas, including standards and restrictions regarding  
34 permitted uses, and development, performance, and maintenance  
35 standards for public and private structures and sites, and prepare  
36 criteria and architectural standards of historical significance.

37 (6) Submit proposed historic preservation plans to the  
38 metropolitan development commission for consideration for  
39 adoption as a segment of the comprehensive plan of the county.

40 (7) After adoption of a historic preservation plan, assist in the  
41 plan's administration and implementation, including the issuance  
42 of permits and licenses, together with other governmental

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1 agencies, and hear and determine applications for certificates of  
2 appropriateness as provided in this chapter.

3 (8) Manage and operate historic structures and areas for any  
4 purpose consistent with the applicable historic preservation plan,  
5 authorize necessary agents and employees to convey or lease any  
6 properties for any purpose or use to further the plan, and do all  
7 necessary acts and things incidental to operations, management,  
8 and leasing, including charging reasonable admission fees to any  
9 of these properties.

10 (9) Assist other governmental agencies regarding historic  
11 preservation, including the development of a state preservation  
12 plan as the plan relates to the county, and work with other  
13 governmental agencies in the development and carrying out of  
14 plans to preserve, restore, and rehabilitate any historic area,  
15 including the elimination of blight and deterioration, the  
16 demolition and removal of unsafe, unhealthful structures, and the  
17 repair and appropriate alteration of structures.

18 (10) Acquire any properties, structures, or sites for any purpose  
19 of the commission by conveyance from the redevelopment  
20 commission or from any other person or governmental agency,  
21 upon such terms and conditions, and with or without  
22 compensation, as may be agreed upon.

23 (11) Establish and maintain a register of historic properties in the  
24 county.

25 (12) Make any recommendation and reports the commission  
26 considers appropriate to the executive of the consolidated city,  
27 metropolitan development commission, or other governmental  
28 agency concerning historic preservation in the county.

29 (13) Prepare, publish, present, or distribute, with or without  
30 charge, any information, reports, graphic or audiovisual  
31 presentations, documents, or other materials relative to historic  
32 preservation.

33 (14) Conduct, attend, or participate in any conferences,  
34 presentations, seminars, or programs regarding historic  
35 preservation.

36 (15) Encourage and promote historic preservation, particularly  
37 preservation by private means, provide technical assistance to  
38 local preservation or historical associations, individuals, or  
39 groups, in accordance with the historic preservation plan, and  
40 recognize excellence in historic preservation efforts by awarding  
41 citations.

42 (16) Establish citizens advisory councils or special committees

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regarding historic preservation.

(17) Prescribe the duties and qualifications of its administrator and other staff in accordance with section 4 of this chapter.

(18) Contract with architects, engineers, attorneys, urban planners, or any other consultants in connection with any purpose of the commission, such as the conducting of a survey of historic properties, preparation of proposed plans, ordinances, reports, surveys, drawings, maps of historic areas, or any other project provided in this chapter.

(19) Appoint a hearing officer (who may be a commission member, a member of the staff, or any other person) to hear and determine, on behalf of the commission, applications for certificates of appropriateness.

(20) Prepare and submit an annual budget in the manner prescribed by section 4 of this chapter.

(21) Participate, in conjunction with the consolidated city, in a retirement system for commission employees.

(22) Accept or contract with the consolidated city or with other persons for the furnishing of professional staff or any other services, office facilities, equipment, and supplies to the extent and for compensation as may be agreed upon, with or without compensation, and to receive and expend any funds, grants, or gifts for carrying out any function of the commission under this chapter.

(23) Enter into and carry out contracts with federal or state agencies, subject to the approval of the city executive, regarding grants of financial or other assistance to the county, city, or commission, accept and expend grant money or other assistance, and enter into and carry out contracts with other persons or governmental agencies for any purpose of the commission.

(24) Exercise the powers of a board of zoning appeals **or a township legislative body to which IC 36-7-4-901.5 applies**, in a historic area or historic zoning district, if authorized by a zoning ordinance adopted under IC 36-7-4.

(25) Conduct public hearings required to be held by the metropolitan development commission under the 600 series of IC 36-7-4 relative to territory included in a historic area or historic zoning district, if designated by the metropolitan development commission.

(b) The commission shall provide technical services and advice about historic preservation to the consolidated city when necessary or useful in connection with the planning, development, or redevelopment

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of the county.

(c) This subsection applies to the sale or disposal of real property by the commission. If the property is sold by acceptance of bids, a bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

- (1) beneficiary of the trust; and
- (2) settlor empowered to revoke or modify the trust.

SECTION 68. IC 36-8-10.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) **Except as provided in subsection (b),** the training may be conducted at:

- (1) a location within the political subdivision employing a full-time firefighter;
- (2) the headquarters of the volunteer fire department where a volunteer firefighter is seeking membership; or
- (3) any other facility where the training is offered.

**(b) This subsection applies only to a county containing a consolidated city. After June 30, 2006, the training shall be conducted at the education center (as defined in IC 36-3-9-4).**

~~(b)~~ (c) The training must be conducted by personnel certified as instructors by the education board.

SECTION 69. IC 36-10-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) **Except as provided in subsection (b),** this chapter applies to the townships indicated in each section.

**(b) After December 31, 2006:**

- (1) **this chapter does not apply to a township in a county having a consolidated city; and**
- (2) **all powers and duties related to parks and recreation of the townships shall be transferred to the consolidated city.**

SECTION 70. IC 36-10-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) **Except as provided in subsection (b),** this chapter applies to ~~all townships: a~~ township.

**(b) After December 31, 2006:**

- (1) **this chapter does not apply to a township in a county having a consolidated city; and**
- (2) **all powers and duties related to parks and recreation of the townships shall be transferred to the consolidated city.**

SECTION 71. [EFFECTIVE JANUARY 1, 2007] (a) **All assets, property rights, equipment, records, personnel, and contracts and all else connected with:**

- (1) **providing and maintaining parks and community centers under IC 36-10-7 and IC 36-10-7.5;**

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- (2) administering the dog tax and dog fund under IC 15-5-9;
- (3) performing duties regarding fences under IC 32-26;
- (4) providing and maintaining cemeteries under IC 23-14; and
- (5) destroying detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4;

by a township in a county having a consolidated city are transferred to the consolidated city on January 1, 2007.

(b) Any indebtedness regarding the activities set forth in subsection (a)(1) through (a)(5) that was incurred by a township before January 1, 2007, shall be assumed or defeased by the consolidated city, notwithstanding any other provision of Indiana law requiring completion of certain procedures and approvals for the incurrence of indebtedness; however, the indebtedness (or any part of the indebtedness) may not be assumed by the consolidated city if the assumption would cause the consolidated city to exceed any limitation on the amount of indebtedness that may be incurred by the consolidated city.

(c) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5 do not apply to ad valorem property taxes imposed by a consolidated city to pay or fund any indebtedness assumed, defeased, paid, or refunded under subsection (b).

SECTION 72. [EFFECTIVE JULY 1, 2006] (a) For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(1) is increased for a consolidated city by the amount levied in 2006 by each township in the county having a consolidated city for:

- (A) providing and maintaining parks and community centers under IC 36-10-7 and IC 36-10-7.5;
- (B) administering the dog tax and dog fund under IC 15-5-9;
- (C) performing duties regarding fences under IC 32-26;
- (D) providing and maintaining cemeteries under IC 23-14; and
- (E) destroying detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4; and

(2) is reduced for a township in a county having a consolidated city by the amount levied in 2006 for:

- (A) providing and maintaining parks and community centers under IC 36-10-7 and IC 36-10-7.5;
- (B) administering the dog tax and dog fund under IC 15-5-9;

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- (C) performing duties regarding fences under IC 32-26;
- (D) providing and maintaining cemeteries under IC 23-14;
- and
- (E) destroying detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4.

(b) This SECTION expires January 1, 2008.

SECTION 73. [EFFECTIVE JULY 1, 2006] (a) For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(1) is reduced for a consolidated city by the amount levied by the consolidated city in 2006 for the responsibilities of a board of zoning appeals (established under IC 36-7-4-901) with respect to approving or rejecting all petitions for:

- (A) variances;
- (B) special exceptions;
- (C) special uses;
- (D) contingent uses; and
- (E) conditional uses;

relating to property wholly or partially in a township in the county having a consolidated city that is not located within the jurisdiction of the consolidated city or an excluded city (as defined in IC 36-3-1-7); and

(2) is increased for a township in the county having a consolidated city by the amount levied by the consolidated city in 2006 for the responsibilities of a board of zoning appeals with respect to approving or rejecting all petitions for:

- (A) variances;
- (B) special exceptions;
- (C) special uses;
- (D) contingent uses; and
- (E) conditional uses;

relating to property wholly or partially in a township (in the county having a consolidated city) that is not located within the jurisdiction of the consolidated city or an excluded city (as defined in IC 36-3-1-7).

(b) This SECTION expires January 1, 2008.

SECTION 74. [EFFECTIVE JULY 1, 2006] (a) This SECTION applies only to a township in a county having a consolidated city.

(b) IC 36-6-6-2, as amended by this act, does not affect the term of a township legislative body member that expires on January 1, 2009.

(c) After June 30, 2006, a township legislative body shall adopt

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1 a resolution under IC 36-6-6-2.5, dividing the township into five (5)  
 2 legislative body districts in accordance with IC 36-6-6-2, as  
 3 amended by this act. A five (5) member township legislative body  
 4 shall be elected in accordance with IC 36-6-6-2, as amended by this  
 5 act, at the 2008 general election.

6 (d) This SECTION expires January 1, 2009.

7 SECTION 75. [EFFECTIVE JANUARY 1, 2007] (a) This  
 8 SECTION applies only to a county having a consolidated city.

9 (b) This SECTION does not apply to an excluded city that has  
 10 a board of zoning appeals under IC 36-7-4-901(g).

11 (c) As used in this SECTION, "petition" means a petition for a:

- 12 (1) variance;
- 13 (2) special exception;
- 14 (3) special use;
- 15 (4) contingent use; or
- 16 (5) conditional use;

17 filed under IC 36-7-4.

18 (d) Notwithstanding IC 36-7-4-901, IC 36-7-4-918.8,  
 19 IC 36-7-4-922, and IC 36-7-4-923, all as amended by this act, and  
 20 IC 36-7-4-901.5, as added by this act, a petition filed with a board  
 21 of zoning appeals before January 1, 2007, shall be approved or  
 22 denied by the board of zoning appeals. IC 36-7-4-922(b) through  
 23 IC 36-7-4-922(d), as amended by this act, applies to a petition filed  
 24 with a board of zoning appeals before January 1, 2007.

25 (e) This SECTION expires January 1, 2012.

26 SECTION 76. An emergency is declared for this act.

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